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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,021	05/07/2007	Denise M. Chan		4857

7590
DENISE M. CHAN
121 FREDERICK COURT
MOUNTAIN VIEW, CA 94043

EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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07/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,021

Applicant(s)

CHAN, DENISE M.

Examiner

HUYEN D. LE

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

2. Claims 2 and 11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 2 does not have a further limitation of claim 1.

Claim 11 does not have a further limitation of claim 10.

Claim Rejections - 35 USC § 112

3. Claim 8 recites the limitation "the shape" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "the ornamental body attachment portion" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what "the body" on line 2 is referred.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 7-16, 18, 20, 21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenwood (U.S. patent 2,595,672).

Regarding claims 1-2, 4 and 7-8, Greenwood teaches a device (figures 1, 2) that comprises a curved body (8) adapted to wrap around at least a portion of an ear when the device (figures 1, 2) is worn by the wearer. As shown in figures 1-3, the curved body (8) includes an earphone connector (9, 11, 12) and an extension (13, 14) from the curved body to connect an ornamental body (16).

Regarding claim 3, Greenwood shows the extension (13, 14) that is forward-facing as claimed.

Regarding claim 9, Greenwood shows the connector (9, 11) that comprises a loop (figures 1, 3, 5).

Regarding claims 10-13, Greenwood teaches a device (figures 1, 2) that comprises an ear wrap (8). As shown in figures 1-3, the ear wrap (8) comprises a means (14, col. 2, lines 15-18) for attaching an ornamental body (16) and a means (9, 11, 12) for attaching an earphone (5, 6).

Regarding claim 14-15, Greenwood teaches the ornamental body (16) that is permanently or removably attached to the ornamental body attachment means or the ornamental body attachment portion (14) of the ear wrap (col. 1, lines 9-14 and col. 2, lines 15-18).

Regarding claims 16 and 18, Greenwood teaches a device or a system that comprises an ear wrap (8), an earphone (5, 6) and a plurality of ornamental bodies having different shapes (col. 1, lines 24-30). As shown in figures 1-3, the ear wrap (8) comprises an earphone attachment portion (9, 11, 12) and an ornamental body attachment portion (14).

Regarding claims 20-21, Greenwood shows a method of using an ornamental ear wrap with an earphone by a user (figures 1, 2). The method of Greenwood comprises wrapping the ear wrap (8) about the ear, positioning the earphone (5, 6) adjacent the ear canal and displaying the ornamental body (16) adjacent the face when the device (figures 1, 2) is worn by the user.

Regarding claim 24, Greenwood teaches the method that comprises exchanging the ornamental body attached to clamp (8) with another ornamental body (col. 1, lines 24-30).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 6, 17, 19, 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenwood (U.S. patent 2,595,672).

Regarding claims 5 and 6, Greenwood does not show a post and a receptacle as claimed. However, Greenwood does not restrict to any means for supporting or attaching the ornament (col. 1, lines 9-14).

Therefore, it would have been obvious to one skilled in the art to provide any means for supporting or attaching the ornament such as the extension (14) that comprises a post and the ornamental body (16) that comprises a receptacle for an alternate choice.

Regarding claim 17, Greenwood does not teach the butterfly shapes for the ornamental bodies (16). However, Greenwood does not limit to the shapes of the ornament (col. 1, lines 28-30 and col. 2, lines 17-21).

Therefore, it would have been obvious to one skilled in the art to provide any shapes for the ornamental bodies (16) of Greenwood such as the butterfly shapes for an alternate choice.

Regarding claim 19, Greenwood does not specifically teach an in-line microphone. However, the examiner takes the Office Notice that providing a microphone in a hearing aid is known in the art.

Therefore, it would have been obvious to one skilled in the art to provide a microphone in the hearing aid (5) of Greenwood for better receiving the input signals.

Regarding claims 22 and 23, Greenwood does not specifically teach the attaching that is accomplished before or after the wrapping the ear wrap. However, it would have been obvious to one skilled in the art to provide the step of attaching the ornamental body (16) to the ornamental body attachment portion (14) before or after the wrapping for the same desired purpose of serving to successfully mask the hearing aid from normal view.

Regarding claim 25, Greenwood does not teach that the earphone (5, 6) is connected to a technology device as claimed. However, Greenwood does teach lead-in cord plugs (7) for the earphone.

Therefore, it would have been obvious to one skilled in the art to connect the earphone (5, 6) to any technology device for better receiving the signal sources.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Strzalkowski (U.S. patent 3,068,954) teaches a hearing aid apparatus in connection with hearing aid earpiece mounting.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUYEN D. LE/
Primary Examiner, Art Unit 2615

HL
July 17, 2008